

United States District Court  
Southern District of Texas

**ENTERED**

April 20, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

BEN CHAPA,

**Petitioner,**

V.

**Civil Action No. 6:21-CV-00015**

# SOCIAL SECURITY ADMINISTRATION,

## **Respondent.**

## ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is the March 14, 2022 Memorandum and Recommendation (“M&R”) signed by Magistrate Judge Jason B. Libby. (Dkt. No. 30). In the M&R, Magistrate Judge Libby reviewed the ALJ’s decision that Petitioner Ben Chapa was not disabled and recommends that the ALJ’s decision is supported by substantial evidence. Specifically, after reviewing the record, Magistrate Judge Libby rejected Chapa’s three arguments: (1) the ALJ failed to properly consider all of his impairments at Step 2 of the process for evaluating a disability claim, (*Id.* at 20–24); (2) the ALJ’s determination as to Chapa’s residual functional capacity was not based on substantial evidence, (*Id.* at 24–29); and (3) the ALJ erred by applying the Medical Vocational Guidelines (usually referred to as the Grid Rules) at Step 5 of the process for evaluating a disability claim because Chapa has a non-exertional limitation, (*Id.* at 29–32). Magistrate Judge Libby recommends that Chapa’s Motion for Summary Judgment be denied and

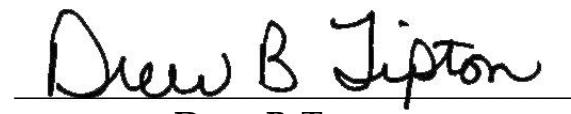
the Respondent Commissioner of Social Security's Motion for Summary Judgment<sup>1</sup> be granted.

The Parties were provided proper notice and the opportunity to object to the M&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Neither Party objected. As a result, review is straightforward: plain error. *Guillory v. PPG Indus., Inc.*, 434 F.3d 303, 308 (5th Cir. 2005).

No plain error appears. Accordingly, the Court **ACCEPTS** the M&R as the Court's Memorandum Opinion and Order. The Court **DENIES** Ben Chapa's Motion for Summary Judgment. (Dkt. No. 28). The Court **GRANTS** the Commissioner of Social Security's Motion for Summary Judgment. (Dkt. No. 29).

It is SO ORDERED.

Signed on April 20, 2022.

  
\_\_\_\_\_  
DREW B. TIPTON  
UNITED STATES DISTRICT JUDGE

---

<sup>1</sup> Magistrate Judge Libby construed the Commissioner's Response in Opposition to Chapa's Motion for Summary Judgment, (Dkt. No. 29), as a cross motion for summary judgment. (Dkt. No. 30 at 1).